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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

**FILE: B-190563**

**DATE: March 22, 1978**

**MATTER OF: American Mutual Protective Bureau**

**DIGEST:**

Agency determination to provide services in-house rather than to contract for such services is matter of Executive policy under OMB Circular A-76. However, steps should be taken to assure that solicitation indicates significant factors which will affect decision to perform in-house or contract out.

American Mutual Protective Bureau (AMPB) has protested the decision of the Naval Supply Center, Puget Sound, Bremerton, Washington, to cancel invitation for bids No. NOO40677-B-C760 and to provide the services required by Government employees.

The IFB called for guard services for the Puget Sound Naval Yard for 1 year with two 1-year options and advised that bids received would be compared with a Government in-house cost estimate to determine the economic feasibility of accomplishing the work either in-house or by contract.

AMPB's bid of \$2,138,140 for the 3-year period was originally third low, but became the lowest when one bid was withdrawn and another corrected upward. Following the opening of bids, the contracting officer determined, based on the Government cost estimate, that it would be more economical to perform the guard services in-house and canceled the solicitation.

This conclusion stemmed from the need, not stated in the solicitation, to maintain in-house an alert/reaction force explained as follows by the contracting officer:

"The Government's estimate of additional costs that would result from contracting out rather than retaining in-house was \$1,365,556. Of that amount, \$1,298,406 is attributable to the alert/reaction force.

"Whether the Guard Service function is contracted out or performed in-house, a thirty-eight (38) man reaction force is required to provide necessary security to the Puget Sound Naval Shipyard in the event of sensitive incidents, riot, etc. PSNS is a nuclear shipyard performing overhaul and other services to nuclear vessels and submarines. Security within the Industrial Area (CIA), formerly guarded by Marines, is of utmost importance. Policing type functions on a standby basis will be performed by the reaction team and such functions are clearly inappropriate for contractor performance per OMB Circular A-49 of 25 February 1959, DOD Directive A100.33 and OPNAV Instruction 5510.45B. Furthermore, the Commanding Officer of PSNS cannot delegate his responsibility for security (Navy Regulation 0702.1972) and thus must insure maximum accountability directly to him (see Attachment 9). The absolute necessity for continuous, uninterrupted service has also been cited. The likelihood of a strike by civil service personnel was considered negligible, whereas it is a real possibility with a contractor.

"In addition to the above reasons, it was determined that the reaction force (38 personnel total) could not be composed of contractor personnel, as such a mixture of civil service and contractor personnel would likely result in prohibited personal service contracting in violation of ASPR 22-102 and various implementing directives.

"Nineteen (19) personnel for the reaction force would be provided from the shipyard police force regardless of whether contract or civil service

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guards are utilized. If the function is performed in-house, the additional nineteen (19) personnel would be provided from the guard force by temporary gate closures or other methods. However, if the guard service function was contracted out an additional cost to the Government would be incurred to hire nineteen (19) additional personnel into the police force, since contract guards would not be available for temporary emergency duty for reasons discussed above."

AMPB argues that bidders should have been allowed to bid on furnishing the alert/reaction force.

Executive Branch policy, with respect to contracting for services or performing them with Government employees, is stated in Office of Management and Budget Circular A-76. It expresses a general preference for contracting with commercial enterprises. However, this is a matter of policy not affecting legal rights or obligations. M. B. I. Security Services, Inc., B-187681, November 8, 1976, 76-2 CPD 389, and Meldick Services, Inc., B-184916, October 10, 1975, 75-2 CPD 231.

Therefore, the protest is denied.

However, the IFB should have pointed out the decision to maintain the alert/reaction force in-house and the impact of the decision on the relative cost determination. The Secretary of the Navy is being advised of this conclusion.

*R. G. Kistner*  
Deputy Comptroller General  
of the United States